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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL G. PORTO (a.k.a. GUY MICHAELS)

Plaintiff,

v.

STEPHEN ADLY GUIRGIS, LABYRINTH  
THEATER COMPANY, PHILIP SEYMOUR  
HOFFMAN, FABER AND FABER, INC., AND  
DRAMATISTS PLAY SERVICE, INC.,

Defendants.

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Civil Action No. 08 Civ. 1228 (LTS)(GWG)

**DEFENDANTS' STATEMENT OF  
MATERIAL FACTS PURSUANT TO LOCAL RULE 56.1**

Pursuant to Local Rule 56.1 of the Southern District of New York and in support of their motion for summary judgment, defendants Stephen Adly Guirgis, Philip Seymour Hoffman, LAByrinth Theater Company, Faber and Faber, Inc., and Dramatists Play Service, Inc. (collectively, "defendants") maintain that there is no genuine issue to be tried as to the following material facts that warrant summary judgment as a matter of law:

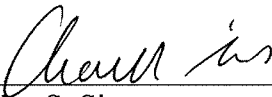
1. Defendants' play *The Last Days of Judas Iscariot*, which plaintiff alleges has infringed plaintiff's novel *Judas on Appeal*, is attached as Exhibit 1 to the Declaration of Stephen Adly Guirgis.

2. Plaintiff's novel *Judas on Appeal*, which plaintiff alleges has been infringed by *The Last Days of Judas Iscariot*, is attached as Exhibit A to plaintiff's Amended Complaint, and this Amended Complaint is attached in its entirety as Exhibit 1 to the Declaration of Adam D. Siegartel (defendants' play *The Last Days of Judas Iscariot* was attached as Exhibit E to plaintiff's Amended Complaint, and thus is also attached within Exhibit 1 to the Siegartel Declaration).

3. Prior to the filing of this action, plaintiff's counsel and counsel for defendant Stephen Adly Guirgis exchanged letters regarding this matter and the merits of plaintiff's position (or lack thereof), which are attached as Exhibit 13 to the Siegartel Declaration.

Dated: June 27, 2008  
New York, New York

PROSKAUER ROSE LLP

  
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